

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MONTAGUE ELEMENTARY SCHOOL
DISTRICT .

OAH CASE NO. 2014050896

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

On June 30, 2014, Aimee M. Perry, attorney for the Montague Elementary School District, filed a request to continue the dates in this matter on the grounds that the parties had reached a settlement but required additional time to draft and execute a settlement agreement. The Office of Administrative Hearings accepts Ms. Perry's representation that Student joins in the request. The parties have requested that the dates in this matter be continued to September 2014. As set forth below, a continuance of such a length is not warranted.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted in part. All dates are vacated. While the parties have established good cause to continue the matter based on their need for time to execute a settlement

agreement, the parties have not established good cause to continue this matter to September 2014. Accordingly, this matter will be set as follows:

Prehearing Conference:	July 28, 2014, at 10:00 AM
Due Process Hearing:	August 5 – 6, 2014, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: July 1, 2014

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings